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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,632	06/30/2005	Andrew J.S. Dawood	21547-00298-US1	3407

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EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/506,632

Applicant(s)

DAWOOD, ANDREW J.S.

Examiner

Melba Bumgarner

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) 2, 12 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/7/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, claims 1, 3-9, 13, and 14 in the reply filed on September 14, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 2, 12, and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Objections

3. Claims 1 and 3 are objected to because of the following informalities: use of capitalized Part in claim 1 and article in "an internally threaded components" in claim 3. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 3-6, 9, 13, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 3 and 4, it is unclear whether externally threaded part(s) is in addition to 1/ and 2/ parts. It is unclear which part is limited in "said part" of claim 4. In claim 9, it is unclear what is meant by "a metric machine". Recitation of "said transport

segment” in claim 5, “the gingival cuff” in claim 6, “the gingival” in claim 9, and phrases throughout claims 13 and 14 lack sufficient antecedent basis.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 3 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims appear to recite part of the human body in combination with the structure of the claimed invention, “one which is inserted into a prepared site into the jaw bone”. It has been held that a claim directed to or including within its scope, a human being will not be considered to be patentable subject matter under 35 USC 101. The grant of limited, but exclusive property right in a human being is prohibited by the Constitution. *In re Wakefield*, 422 F.2d 897, 164 USPQ 636 (CCPA 1970). Applicant needs to clearly state using inferential language that the human anatomy is not claimed. For examination purposes, the claims will be considered as if such limitations involving the combination with a human were not present.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1 and 3-9 are rejected as understood, under 35 U.S.C. 102(e) as being anticipated by Tramonte (2002/0081553). Tramonte discloses a fixture having external threading, comprising a threaded part 2 for insertion into a prepared site in the jaw bone and a threaded part 3 to which pressure may be applied by means of an internally threaded element 4. The threaded parts are externally threaded. As understood, a part has a flattened aspect 5. The fixture has a smooth, non-threaded, alignment section at its apex 9. The fixture is provided with a polished section 5, the collar is inferentially claimed; however, a non round cross-section is shown. Patentable weight is not given to the intended use of the fixture; however, Tramonte shows the fixture is designed for connection to prostheses. Tramonte shows an aperture 8 within its body, patentable weight is not given to its intended use and the aperture is capable of having a wire pass through. The fixture has a tapered body 6, deeply biting threads 2b, and a part threaded on the threaded part 3.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 13 and 14 are rejected as understood, under 35 U.S.C. 103(a) as being unpatentable over Tramonte in view of Hall (2003/0158554). Tramonte discloses a fixture that shows the limitations as described above; however, Tramonte does not show the fixture having surface treatment. Hall teaches a fixture having surface treatment of a roughening process and portions of rougher surface and relatively smooth. It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to modify the fixture of Tramonte to have the surface treatment of Hall in order to apply different textured surfaces to different types of bone encountered in dental situations in view of Hall.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709.

The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner